



Bureau of HIV and STD Prevention

HIV/STD Clinical Resources Division
HIV/STD Epidemiology Division
HIV/STD Health Resources Division

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HIV/STD Policy No. 240.006

CONSORTIUM REQUEST TO REMOVE THE ADMINISTRATIVE AGENCY

PURPOSE

The purpose of this policy is to clarify the method by which a consortium may make request to the Texas Department of Health (TDH) to formally remove the administrative agency as the provider of administrative services for the consortium. Removal of an administrative agency is a process involving termination of the formal contractual arrangement between TDH and the administrative agency along with numerous other time consuming activities which are necessary to avoid any gap in service delivery to the client population. TDH will consider a request under this policy only after earnest attempts by the two parties to resolve their differences have failed.

BACKGROUND

A consortium selects a local organization (administrative agency) to contract with TDH, Bureau of HIV and STD Prevention (Bureau) on its behalf to oversee and manage contractual services. In a Memorandum of Understanding (MOU) with the consortium, the administrative agency agrees on the management and support services it will provide. The administrative agency signs a contract with the Bureau to administer and disburse funds to various providers within the HSDA on behalf of the consortium. At some point, the consortium may wish to discontinue its relationship with the administrative agency.

AUTHORITY

Ryan White CARE Act of 1990 and CARE Act Amendments of 1996; Uniform Grant and Contract Management Standards, Chapter II, Grants and Cooperative Agreements with State and Local Governments; Office of Management and Budget Circular A-87, Attachment B; 25 Texas Administrative Code, § 98.29; Health and Safety Code, Chapter 85, §§ 85.031-85-044; TDH Contracting Guide for Client Services.

RESOLVING PROBLEMS AND/OR ISSUES

When a consortium encounters a problem in its relationship with an administrative agency or discovers management irregularities affecting their relationship, all efforts must be made to resolve such issues prior to requesting TDH to cancel its contract. The consortium is encouraged to use informal or formal conflict resolution procedures to reach an understanding of any issues with the administrative agency at an early stage. The consortium may incorporate these procedures into its organizational bylaws if the formalization of procedures is deemed necessary. Some mechanisms to resolve difficult issues may include:

- 1 • Meetings with the administrative agency to discuss the problem/issue.
- 2 • Mediation or facilitation by a third party who assists the parties to reach an
- 3 acceptable resolution.
- 4 • Arbitration by an independent and impartial third party to decide the conflict. See
- 5 OMB Circular A-87, Attachment B, Section 33 for information related to paying for a
- 6 professional arbitrator.

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 8 Documentation of the efforts to resolve such issues with the administrative agency
 9 should be kept as this documentation will become invaluable should such efforts fail.
 10 Once a resolution to a problem/issue has been achieved, an amendment to the MOU
 11 may be made, if necessary, to reflect the agreement(s) reached between the
 12 administrative agency and the consortium.

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 14 **REASONS FOR CONSORTIUM TO DISCONTINUE ADMINISTRATIVE AGENCY**
 15 **SERVICES**

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 17 The consortium must have considerable documentation showing clear, verifiable
 18 reasons for discontinuing the services of the administrative agency. Possible reasons
 19 include:

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- 21 • consistent failure of the administrative agency to fund services according to the
- 22 consortium's allocation plan;
- 23 • unresolved contractual irregularities;
- 24 • failure of the administrative agency to uphold the MOU with the consortium thereby
- 25 creating difficulties that inhibit the ability of the consortium to achieve the
- 26 appropriate level of HIV related services;
- 27 • proof of false or fraudulent requests for payments, or
- 28 • proof that the administrative agency provided false or misleading information
- 29 necessary for the continuation of provider status.
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31 **PROCESS FOR CONTRACT TERMINATION**

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 33 The consortium submits a written request to TDH asking for cancellation of the
 34 administrative agency's contract. With its request, the consortium must provide
 35 **documentation of the verifiable reason(s) for discontinuing services** and
 36 documentation of its attempts to resolve the problem.

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 38 TDH has the sole responsibility for terminating the contract with the administrative
 39 agency. TDH reserves the right to accept or deny the consortium's request. TDH also
 40 reserves the right to require the consortium to have formally selected a new
 41 administrative agency to continue the contract before TDH will terminate a contract with
 42 the existing administrative agency. Assistance to the consortium is available from the
 43 HIV/STD Health Resources Division, Field Operations Branch regarding this matter.
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1 ADMINISTRATIVE AGENCY RECOURSE

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3 An administrative agency which disagrees with a TDH decision to terminate its contract
4 may request an informal hearing when it is informed of the TDH decision. See 25 TAC,
5 Chapter 98, §98.29 for information regarding informal hearing procedures.

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7 Termination of the TDH contract with the administrative agency will be delayed until the
8 due process hearing is completed and a decision has been made. However, TDH may
9 exercise other options such as withholding or reducing funds until a decision is made.

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11 REVISIONS: Policy rescinded 9/26/2001

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13 DATE OF LAST REVIEW: 09/26/2001